



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-20

Legistar #: 20140621

Board of Zoning Appeals Hearing: Monday, June 23, 2014 – 6:00 p.m.

Petitioner/Agent: Bart Blackburn
1058 King Industrial Drive
Marietta, GA 30062

Property Owner: Talenti Gelato
1058 King Industrial Drive
Marietta, GA 30062

Address: 1058 King Industrial Drive

Land Lot: 11340 District: 16 Parcel: 0100

Council Ward: 7 Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to increase the maximum height of an accessory structure (20,000 gallon milk tank) from 20 feet to 40 feet. [§716.08]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



**Front of 1058 King Industrial Drive
with tanks in background**



Existing tanks

Recommended Action:

Approval. Bart Blackburn, representing the owner, Talenti Gelato, is requesting a variance to increase the maximum height of an accessory structure (20,000 gallon milk tank) from 20 feet to 40 feet. The subject property is 4.1 acres, is zoned LI (Light Industrial), and is located at 1058 King Industrial Drive, which is located Cobb-Marietta Industrial Park. Adjacent properties to the north, south and east are zoned LI (Light Industrial) and HI (Heavy Industrial); and across King Industrial Drive, the properties are zoned LI (Light Industrial).

There has been a manufacturing facility on this property since 1989, when it was operated by Southern Ice Cream, Inc. In 2012, Talenti Gelato began operations at this location. Sometime during the period when Southern Ice Cream, Inc. operated the facility, two tanks that exceed the height limit were erected on the property. One of the tanks is 36 feet in height, and the other is 46 feet in height.

Talenti Gelato has begun to exceed their current capacity and need to add another tank. The proposed tank will be 40 feet in height, will have a capacity of 20,000 gallons and will be located directly behind the two existing tanks. Another tank was previously located on this site and was recently removed by the property owner on May 16, 2014 without realizing that the tank was a nonconforming structure due to its height. According to the City zoning regulations, an accessory structure in an LI district may only be 20 feet in height, and these tanks are considered accessory structures.



Talenti Gelato is also in the process of combining two parcels that they currently own, so that setbacks from the rear and side property will not be an issue.

Cobb-Marietta Industrial Park is an intensively used industrial location, and the request to add a 40 foot tank in this location will have little effect on the adjacent property owner while allowing Talenti Gelato to expand their capacity. As a result, ***staff recommends approval of the variance request.***

Note: It is likely more requests such as these will occur in the future because of aging equipment in the various industrial parks in the City. It may be worthwhile to consider a code change that would allow accessory structures to have taller heights when they are surrounded entirely by industrially zoned properties.